IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

Crl.MC.No. 1076 of 2007()

C.C.NO.1179 OF 2004 OF J.F.C.M, CHALAKKUDY

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PETITIONER: 2ND ACCUSED

SHIBU, S/O.CHAKKALAMATTATH OUSEPPU,
AGED 26 YEARS, ANNALLUR P.O,
THRISSUR.

BY ADV. SRI.KRISHNA PRASAD. S

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM REPRESENTING S.I OF POLICE, CHALAKKUDY POLICE STATION (CRIME NO.357 OF 2004 OF CHALAKKUDY POLICE STATION).

BY PUBLIC PROSECUTOR SRI.C.M.KAMAPPU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1076 of 2007

Dated this the 2nd day of April, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 332 I.P.C. Investigation is complete. Cognizance has been taken. The petitioner has not been able to appear before the learned Magistrate. He is employed abroad. According to him, he has not received any notice.

2. The learned counsel for the petitioner submits that the petitioner is willing to surrender before the learned Magistrate and seek regular bail. But the petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, prayed that appropriate directions may be issued under Section 482 Cr.P.C.

3. I find absolutely no reason to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the

same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner today itself.

(R.BASANT, JUDGE)

rtr/-